

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 15506 of Larkin and Elizabeth Hutcheson, pursuant to 11 DCMR 3107.2, for a variance from the rear yard requirements (Subsection 404.1) and a variance to allow a carport to be detached from the main building and to locate a carport along the side of a building that faces a building line (Subsection 2300.8) for the construction of a carport for a single-family dwelling in an R-4 District at premises 1701 M Street, N.E. (Square 4471, Lot 153).

HEARING DATE: May 8, 1991  
DECISION DATE: July 24, 1991

ORDER

SUMMARY OF EVIDENCE OF RECORD:

1. The subject site is located at the southeastern corner of the intersection of M and 17th Street, N.E. and is known as premises 1701 M Street, N.E. It is zoned R-4.

2. The subject site is topographically rectangular in shape with a frontage of 38.40 feet along M Street and 77 feet along 17th Street for a total lot area of 2,956.8 square feet.

3. The property is currently improved with a two-story plus basement, semi-detached dwelling, constructed circa 1925, and a recently constructed detached carport.

4. The existing detached carport was constructed without proper building permits, upon becoming aware that the structure did not meet certain zoning requirements, the applicant promptly filed for appropriate permits and zoning relief in order to bring the existing structure into compliance with the Zoning Regulations.

5. The carport is completely detached from the existing dwelling. The carport structure measures nine feet in width by 24 feet in depth for a total area of 216 square feet. Access to the carport is through a 15-foot wide public alley to the rear of the site.

6. The area immediately surrounding the subject site is developed primarily with single-family row and semi-detached dwellings with some low-rise apartment buildings. The site is located one block to the east of Bladensburg Road, an 88-foot wide arterial street that extends northeast into Prince Georges County, Maryland.

7. The R-4 District permits matter-of-right development of residential uses including detached, semi-detached and row single-family dwellings and flats. The R-4 District requires a minimum lot area of 1,800 square feet, a minimum lot width of 18 feet, a maximum height of 40 feet or three stories, and a minimum rear yard depth of 20 feet.

8. The subject carport extends into the required rear yard for a depth of 18 feet. A variance from the minimum rear yard requirements of 18 feet or 90 percent is therefore required.

9. Subsection 2300.8 of the Zoning Regulations provides that a carport shall be attached to the main building and shall not be located along the side of a building that faces a building line unless approved by the Board of Zoning Adjustment subject to the conditions relative to accessory open parking spaces.

10. The existing dwelling is constructed within approximately six feet of an existing building restriction line which is located approximately 15 feet east of the western property line. The existing rear yard measures approximately 18 feet in depth.

11. Because of the size and configuration of the existing dwelling on the site, the applicant is unable to locate a carport within the existing shallow rear yard. Further, because of the six foot separation between the existing dwelling and the building restriction line along the 17th Street frontage of the site, the applicant is unable to construct a carport in its side yard without encroaching on the building restriction line.

12. The carport provides protection for the applicant's vehicle from weather and debris from nearby trees. Because the carport is open on all four sides, the carport does not adversely impact light and air to nearby property nor does it interfere with the view of traffic from the public alley onto 17th Street.

13. The Office of Planning (OP), by memorandum dated May 1, 1991, recommended approval of the application. The OP was of the opinion that the subject carport would not adversely impact the surrounding area nor be inconsistent with the existing characteristics of the immediate neighborhood. The OP was of the opinion that the configuration of the main structure on the lot and the existence of a building restriction line on the property constitutes a practical difficulty upon the owner. The OP was further of the opinion that the use and design of the carport would not impair the intent, purpose or integrity of the Zoning Regulations and Map.

14. Advisory Neighborhood Commission (ANC) 5B did not submit any written issues and concerns relative to the subject application.

15. By letter dated April 17, 1991, the Metropolitan Police Department (MPD) offered no opposition to the application. The MPD was of the opinion that the proposal would not affect the public safety in the immediate area nor generate an increase in the level of police services now being provided.

16. By memorandum dated April 20, 1991, the Department of Public Works (DPW) objected to the granting of the subject application. The memorandum noted that the existence of the carport and fence beyond the building restriction line is of major concern to the DPW. The DPW further noted that the applicant had not submitted sufficient information for the DPW to override the limitations of the building restriction line and the use of public space.

17. Several nearby residents testified at the public hearing in support of the application. In addition, the record contains a petition signed by approximately 84 residents of the neighborhood in support of the application. The support was generally based on the aesthetic appearance of the carport and the fact that it has no adverse impact on the immediate neighborhood.

18. At the conclusion of the public hearing, the Board directed the Office of Planning to request further information from the DPW, as follows:

- a. Description of information needed from the applicants to demonstrate the need to override the limitations of the building restriction line; and
- b. Clarification of DPW's reference to "public space" relating to the open space portion of the applicants' property beyond the building restriction line.

19. By memorandum dated July 1, 1991, the DPW indicated that it does not object to the proposal from a traffic standpoint. However, DPW recommends that resolution of the building restriction line issue be a condition of the Board's approval. DPW noted that the existence of the carport and fence beyond the building restriction line was outside the preview of the Board. DPW suggested that the applicant apply with the Office of the Surveyor to have the building restriction line removed or to apply for a building permit as a projection over the building restriction line.

FINDINGS OF FACT:

1. The Board finds that the applicant has met the requisite burden of proof necessary for the granting of the requested zoning relief.

2. The Board finds that the projection of the carport over the building restriction line is beyond its jurisdiction. The Board concurs with DPW's recommendation that the applicant take appropriate measures to rectify the issues relative to the building restriction line with the appropriate D.C. government agencies.

CONCLUSION OF LAW AND OPINION:

Based on the foregoing findings of fact and the evidence of record, the Board concludes that the applicant is seeking area variance relief, the granting of which requires a showing of a practical difficulty upon the owner arising out of some extraordinary or exceptional condition of the property. The Board further must find that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zoning Regulations and Map.

The Board concludes that the applicant has met the requisite burden of proof. The configuration on the lot of the existing dwelling, which pre-dates the adoption of the Zoning Regulations and the existence of the building restriction line combine to create an exceptional condition inherent in the property itself. The Board concludes that the applicant would suffer a practical difficulty if the Zoning Regulations were strictly enforced in that the site could not accommodate the provision of a carport given the existing dimensions of the rear yard and the location of the building restriction line.

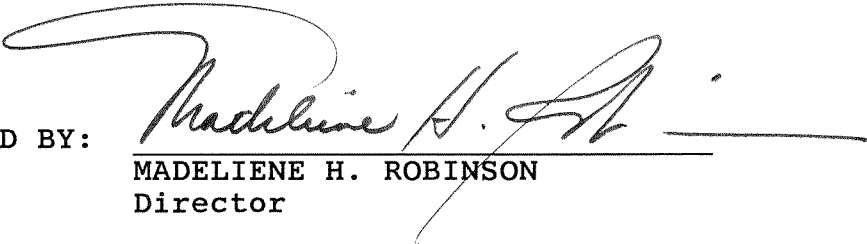
The Board further concludes that the project will not be objectionable to nearby property owners and will be consistent with the intent and purposes of the Zoning Regulations. Accordingly it is **ORDERED** that the application is **GRANTED, SUBJECT** to the **CONDITION** that the applicants must obtain relief from the appropriate agencies to remove the building restriction line or to allow a projection over the building restriction line.

**VOTE:** 3-0 (Charles R. Norris, Paula L. Jewell and Carrie L. Thornhill to grant; Tersh Boasberg not present, not voting; Sheri M. Pruitt not voting, not having heard the case).

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BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:

  
MADELIENE H. ROBINSON  
Director

FINAL DATE OF ORDER:

FEB 26 1993

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

15506Order/bhs

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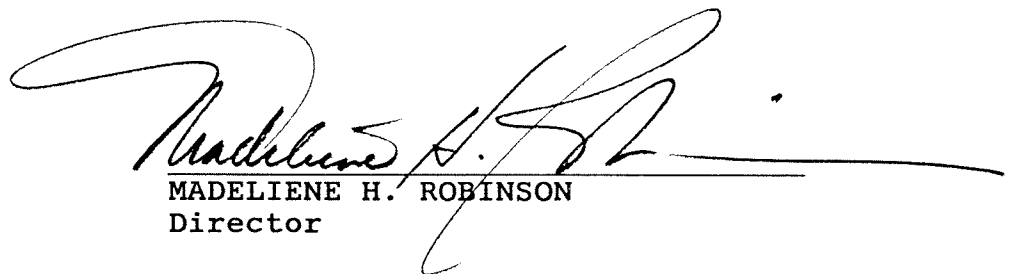
As of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on FEB 26 1993 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Elizabeth Hutcheson  
1701 M Street, N.E.  
Washington, D.C. 20002

Irma Holloway  
1703 M Street, N.E.  
Washington, D.C. 20002

Clifford Marlow  
1704 Lyman Place, N.E.  
Washington, D.C. 20002

MaryRose Chappelle, Chairperson  
Advisory Neighborhood Commission 5B  
1355-57 New York Avenue, N.E.  
Washington, D.C. 20002

A large, stylized handwritten signature in black ink, which appears to read "Madeliene H. Robinson".  
MADELIENE H. ROBINSON  
Director

DATE: FEB 26 1993

15506Att/bhs